

REMARKS

This is in response to the Final Office Action mailed on February 5, 2008.

Status of the Claims

Claims 1-26 have been amended, without the introduction of new matter.

Claims 1-26 are currently pending.

Allowable Subject Matter

Applicants appreciatively acknowledge the Examiner's indication of allowable subject matter in claims 21-23.

Claim Rejections -- 35 U.S.C. § 112

Claims 1-26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner has rejected claims 1-26 as being indefinite for several reasons as indicated in the Office Action. The Examiner has rejected the claims for not reciting a crotch portion. The preamble of the claims recites a crotch-possessing corrective garment. The preamble refers to the type of the garment having the recited claimed features, and therefore it is not required to be positively recited in the claims.

The claims have been amended to recite that "the tightening portion's resistance to stretching varies" as opposed to "a tightening force" in order to clarify the tightening portion applies a force. The Examiner has objected to the use of the term "in the vicinity." Accordingly, the claims have been amended to recite that the tightening portion runs "to a position overlying the left and right greater trochanters." Further amendments to the claims have been made to overcome the remainder of the Examiner's rejections.

Withdrawal of the rejections is respectfully requested.

Claim Rejections -- 35 U.S.C. § 102

Claims 1-20 and 24-26 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,894,542 to Sacristan ("Sacristan").

Sacristan discloses a panty girdle having elastic strips 7 "shaped to assume the curvature of the underside of the buttocks" (See Sacristan col. 1, lines 27-29) and seams 12 which secure elastic strip 9 covering the sacrolumbar area. The seams 12 converge downwardly toward the pubic region. (See Sacristan col. 1, lines 15-25 and Figs. 2 and 3).

Assuming that both elastic strips 7 and 9 of Sacristan are tightening members, neither member travels from the greater trochanters upwards to above the buttocks. Instead, elastic strips 7 and 9 travel upwards from the pubic region at the front of a wearer and then downwards around the buttocks to support and contain the buttocks. In contrast, claim 1 recites that:

the tightening portion runs from above the anal cleft of the wearer's body, extending left and right passing above the left and right buttocks of the wearer's body, and downwards to a position overlying the left and right greater trochanters at left and right outer sides of the wearer's body

Claim 2 recites that:

the left and right pair of tightening portions runs from a position overlying one of the left and right greater trochanter at left and right outer sides of the wearer's body upwards to above one of the left and right buttock of the wearer's body such as to point to above the anal cleft of the wearer's body

Claim 11 recites that:

the tightening portion runs from a position overlying the left and right greater trochanters at left and right outer sides of the wearer's body upwards to above the left and right buttocks of the wearer's body such as to point to above the anal cleft of the wearer's body

Sacristan fails to disclose these claimed arrangements. Sacristan discloses elastic strips 7 and 9 that travel upwards from the pubic region at the front of a wearer and then downwards around the buttocks to support and contain the buttocks. Accordingly, Sacristan fails to anticipate independent claims 1, 2, and 11 and their respective dependent claims.

Further, Sacristan also fails to disclose tightening portions which are forked upwards to the front and the rear, wherein the rear forks run above the buttocks to a point above the anal cleft and the front forks run from the greater trochanters upward. In contrast, claims 7 and 8 recite that:

the tightening portion is forked upward to form front and rear forks, and the rear forks run from the position overlying the left and right greater trochanters of the wearer's body to above the left and right buttocks of the wearer's body such as to point to above the anal cleft of the wearer's body, and the front forks run from the greater trochanters of the wearer's body upward

Accordingly, Sacristan fails to disclose each and every element of claims 7 and 8, and therefore claims 7 and 8 are allowable for at least this additional reason.

Sacristan also fails to disclose panels in which the resistance to stretching in the direction the panels run is lower than the resistance to stretching in the direction orthogonal thereto. Panels 7 and 9 are described as elastic and panel 9 has a greater resistance to stretching than panel 7. However, these panels are not disclosed as having a resistance to stretching that varies with direction. It appears they have a uniform resistance to stretching that is not disclosed as direction dependent. Panel 6 is elastic only in the transverse direction, which as can be seen in Fig. 3, is orthogonal to the direction in which it runs. (See, Sacristan, column 1, lines 37-39). Panel 6 is not elastic in the direction in which it runs. Thus, it is more resistant to stretching in the direction in which it runs, which is opposite to the claimed tightening portions, which are less resistant to stretching in the direction they run. Claim 1 recites that:

the tightening portion's resistance to stretching in the direction in which the tightening portion runs is made to be lower than the tightening portion's resistance to stretching in the direction orthogonal thereto in a plane parallel to the surface of the skin of the wear's body over which the tightening portion overlies

Claim 2 recites that:

the tightening portions' resistance to stretching in the direction in which each of the left and right pair of tightening portions run is made to be lower than the tightening portions' resistance to stretching in the direction orthogonal thereto in a plane parallel to the surface of the skin of the wear's body over which each of the tightening portions overlie

Claim 11 recites that:

the resistance to stretching in the direction in which each of the tightening portion and the supplementary tightening portions runs is made to be lower than the resistance to stretching in the direction orthogonal thereto in a plane parallel to the surface of the skin of the wear's body over which the tightening portion and each of the supplementary tightening portions overlie

Sacristan fails to disclose these claimed arrangements. Accordingly, Sacristan fails to anticipate independent claims 1, 2, and 11 and their respective dependent claims.

CONCLUSION

Each and every point raised in the Office Action dated February 5, 2008 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 1-26 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: August 5, 2008

Respectfully submitted,

By 

Louis J. DelJuidice

Registration No.: 47,522

DARBY & DARBY P.C.

P.O. Box 770

Church Street Station

New York, New York 10008-0770

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant